

## **REMARKS/ARGUMENTS**

The foregoing amendment and the remarks which follow are responsive to the office action dated July 1, 2005.

### **Substitute Specification**

Enclosed herewith is a substitute specification. This substitute specification is identical to that which was previously filed and published during the international stage of prosecution of this PCT application. No new matter has been added.

By filing of this substitute specification, the stated new matter objections to the specification and the objection to the priority claim have been obviated.

### **Amended Claims**

By the foregoing amendment, claims 1-30 have been cancelled and new claims 31-43 have been presented for examination. New claims 32-43 are fully supported by the originally filed specification (i.e., the enclosed substitute specification). Thus, no new matter has been added.

All claims 32-43 are distinguishable on various grounds over all prior art of record, including Nakajima et al. and any other prior art of record.

For example, Nakajima et al. describe a "pyridoxylated hemoglobin polyoxyethylene conjugated solution" that is prepared by coupling an activated ester-derivative of polyethylene (i.e., pyridoxal-5-phosphate) to human hemoglobin. No glycol is used or contained in this preparation. In contrast, Applicant's claimed composition contains PEG-hemoglobin, which is a polyglycol-hemoglobin material. This polyglycol-hemoglobin material as recited in independent claim 31 is quite different from, and is certainly not anticipated by or obvious over, the pyridoxylated hemoglobin polyoxyethylene conjugated solution described by Nakajima et al. Furthermore, Nakajima et al. does not even begin to

suggest the use of a hypocalcemic solution as recited in independent claim 31 or other additional limitations recited in many of Applicant's dependent claims 32-43 (e.g., specific combination of components and/or amounts, inclusion of heparin or lidocaine, etc.).

United States Patent No. 6,582,953 (Brasile) describes a mixture of many different materials. Although PEG-Hb is called out as one of many oxygen carriers that may be present in the mixture, there is no disclosure that the solution should be hypocalcemic, as required by Applicant's independent claim 31. Furthermore, Brasile does not disclose or render obvious additional limitations recited in many of Applicant's dependent claims 32-43 (e.g., specific combination of components and/or amounts, inclusion of lidocaine, etc.).

It is noted that the earliest filing date claimed by Brasile (April 14, 1999) is just slightly more than 2 months earlier than the earliest priority date claimed by Applicant (June 17, 1999). By presenting the above-set-forth arguments, Applicant makes *no* admission that the disclosure contained in Brasile is supported by the April 14, 1999 priority date or that Applicant's actual date of invention is later than any filing date claimed by Brasile.

**Conclusion**

All objections and grounds for rejection are believed to have been overcome. Issuance of a notice of allowance with respect to new claims 31-43 is earnestly solicited.

Date: January 3, 2006

Respectfully submitted,  
STOUT, OXA, BUYAN & MULLINS, LLP

A handwritten signature in black ink, appearing to read 'Robert D. Buyan', is written over the firm name.

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